

00169.001327.1



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
EDWIN HO et al.) : Examiner: G. Desire
Application No.: 09/457,003) : Group Art Unit: 2625
Filed: December 8, 1999) : Confirmation No.: 7190
For: FACE DETECTION IN)
DIGITAL IMAGES : January 11, 2006

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

COMMENTS ON STATEMENT
OF REASONS FOR ALLOWANCE

Sir:

This is a comment on the Examiner's Statement of Reasons for Allowance as found in the Notice of Allowability dated October 20, 2005.

The Examiner's Statement of Reasons for Allowance states, in regard to Claim 70, that the "critical feature not taught is the testing utilizing at least one threshold dependent on at least one image capture condition provided with the color digital image and said image capture condition being expressed as metadata." In keeping with the "as a whole" inquiry, it is believed that this is merely shorthand for the correct legal inquiry, and that the Examiner intended to state that the combination as claimed, including the subject matter that the image capture condition does not depend on a brightness of the digital image, was not anticipated and would not have been rendered obvious by the art of record.

Further, in regard to Claims 71 and 72, it is believed that the Examiner intended to state that the combination as claimed, including the subject matter that the selection is dependent on at least one image capture condition, was not anticipated and would not have been rendered obvious by the art of record. However, if the Examiner intended a different meaning, he is respectfully requested to clarify his meaning on the record.

Even though this paper is being filed after allowance, it cannot properly be said that Applicant has "failed to engage in reasonable efforts to conclude prosecution of the application" (see 35 U.S.C. § 154). Accordingly, Applicant should not be penalized with a reduction in patent term in spite of the provisions of 37 C.F.R. § 1.704(c)(10).

Applicants' undersigned attorney may be reached in our Costa Mesa, CA office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



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